

PART I

DEFINITIONS

101. Clemency. A general term for the Naval Clemency and Parole Board's (NC&PB) administrative review or action, other than the correction of legal error, which results in mitigation, remission, or suspension of the whole or any part of the unexecuted portion of a court-martial sentence, restoration to duty, the voluntary retention on active duty beyond the obligated term of enlistment, or reenlistment. *Clemency also includes substitution for good cause of an administrative discharge for an executed punitive discharge or dismissal in select cases.* The naval clemency system, as governed by this instruction, is independent of any clemency review conducted by the court-martial convening authority, the officer exercising general court-martial jurisdiction over the offender, or higher officials acting pursuant to their authority under Article 74(a), Uniform Code of Military Justice.
102. Clemency Review Eligibility Date. The date an offender is first eligible for clemency review by the NC&PB. The clemency review eligibility date is determined in accordance with the rules set forth in paragraph 403 of this instruction.
103. Commanding Officer. Generally, the officer in command of the military activity on whose rolls the offender is assigned at the time the offender's case is eligible for review by the NC&PB. In the case of personnel serving sentences to confinement in naval brigs, the commanding officer considered an element of the clemency and parole review systems is the officer directly in charge of the brig. For the purposes of this instruction, the term "commanding officer" includes commanding officers and officers in charge of naval brigs; the Commandant, U.S. Disciplinary Barracks, Fort Leavenworth, Kansas; and any other officer who commands a correctional/confinement facility under the control of the armed services.
104. Convening Authority. The officer acting under Articles 22 and 23, Uniform Code of Military Justice (UCMJ), Secretary Navy (SECNAV) (e.g., Judge Advocate General Manual (JAGMAN)) or empowered by the President, who refers charges to trial by court-martial and who ordinarily takes action on findings and sentence after trial under the authority granted by Article 60, UCMJ, or the JAGMAN.
105. Disposition Board. An agent of the NC&PB established by each commanding officer of a naval brig to review and forward to the NC&PB recommendations via the commanding officer concerning clemency and parole requests of all naval offenders assigned to the naval brig.
106. Director, Naval Council of Personnel Boards (NCPB). The Navy or Marine Corps officer overseeing and administering for SECNAV the clemency and parole systems under reference (g).

107. Federal Bureau of Prisons (FBOP). A Federal system of confinement facilities to which selected court-martialed offenders are transferred from naval brigs for completion of service of their sentences to confinement imposed as a result of conviction by courts-martial.

108. Mandatory Clemency Review. Unless waived in writing by the offender, the NC&PB must conduct a clemency review of all cases (except those involving the death penalty) involving offenders whose approved court-martial sentences include 12 months or more confinement.

109. Mitigation. Action taken to lessen the severity of the punishment in quantity or quality, or both, imposed by an approved court-martial sentence.

110. Naval Brig. A military correctional facility within the meaning of 10 U.S.C. section 951 used by the naval (Navy and Marine Corps) service for the confinement of offenders serving court-martial sentences. For purposes of this instruction, the U.S. Disciplinary Barracks, Fort Leavenworth, Kansas, (USDB), and any other correctional/confinement facility under the control of the armed services are included in the term naval brig.

111. Naval Clemency and Parole Board (NC&PB). A board composed of a *President (Navy/Marine Corps 05/06 or comparable senior civil servant) and four senior members (Navy/Marine Corps 05/06 or comparable senior civil servant)* and administratively constituted by SECNAV to take certain departmental-level actions in cases of offenders eligible for clemency and parole.

112. Offender. A member of the Marine Corps, Navy, or Coast Guard who has been convicted by special or general court-martial and has an approved sentence.

113. Officer Exercising General Court-Martial Jurisdiction (OEGCMJ). Any person authorized by Article 22a, UCMJ, SECNAV (e.g., JAGMAN) or empowered by the President to convene general courts-martial and to take supplementary actions required to finalize court-martial of the offender, *e.g.*, order the punitive separation executed because judicial review under Article 71(c), UCMJ, and clemency review under this instruction have been completed.

114. Parole. A conditional release from confinement in a naval brig for an eligible offender after service of at least one-third of the approved sentence to confinement, *but not less than 6 months*. Parole is granted for the purpose of assisting the selected offender, under the guidance and supervision of a *U.S. Probation Officer (USPO)*, to make a successful transition from the controlled living environment in confinement to a normal life in the civilian community.

115. Parole Eligibility Date. The date an offender serving the confinement portion of an approved sentence is eligible for parole.

116. Parole Management. *Officers and civilian personnel of naval brigs* under the supervision of the President, NC&PB, who administer the naval parole program for the NC&PB by acting as liaison with USPO's, and others necessary for the preparation, implementation and completion of parole programs for individually selected offenders paroled under the direction of the NC&PB.

117. Parole Review Hearing. A hearing conducted by the NC&PB to review parole requests, determine whether to grant or deny parole, set conditions of parole if parole is granted, and make parole recommendations to SECNAV in those cases not within the final decision-making authority of NC&PB.

118. Parole Violation Hearing. A hearing to determine whether the parolee has materially violated the conditions of release and, if so, whether parole should be revoked or reinstated.

119. Post-Trial Progress Report. All favorable or unfavorable information, evaluations, and recommendations contained in the file of an offender who has a sentence adjudged by court-martial and approved by the convening authority that documents the offender's attitude, conduct, and performance since being convicted and upon which a decision regarding clemency and parole may be based.

120. Preliminary Interview. A proceeding generally conducted by a USPO other than the offender's USPO to determine whether probable cause exists to believe that the offender has materially violated a condition of parole and to provide a basis upon which to recommend to NC&PB whether a parole revocation hearing should be ordered.

121. Prison Wardens. Federal officials having cognizance over naval offenders who are serving court-martial sentences in facilities administered by the FBOP.

122. Punitive Separation. A dismissal, dishonorable discharge or bad conduct discharge adjudged as a sentence by a court-martial and approved by a convening authority.

123. Remission. The diminution, abatement, or forgiveness, in whole or in part, of any part of the unexecuted or *executed* portion of an approved court-martial sentence.

124. Requested Clemency Review. A written statement or signed form (DD Form 2715-3), or equivalent, whereby an offender whose sentence includes an approved unsuspended punitive separation and less than 12 months confinement requests clemency from the NC&PB.

125. Restoration. Action by which the approved punitive separation of selected offenders who request restoration is remitted or suspended for a definite period of time so that they may demonstrate by conduct and performance during a period of active duty that they deserve to have the suspended punitive separation remitted.

126. Retention. A clemency action by which selected offenders, who are beyond the expiration of their normal service obligation, are offered the opportunity to serve voluntarily a period of active duty beyond the expiration of their active service obligation on probation with a view to honorable restoration to duty.

127. Supervised Release (As if on Parole). An offender who is released at the mandatory release date after service of court-martial sentence to confinement *and* who is placed on mandatory supervision (release as if on parole) *until full term date*.

128. Suspension. The temporary discontinuance, in whole or in part, of the service of the unexecuted portion of an approved court-martial sentence.

129. U.S. Parole Commission. An independent agency of the Department of Justice established under reference (k) with authority to promulgate rules and regulations establishing guidelines for making decisions to grant or deny parole to federal offenders. The guidelines issued by the commission, reference (l), serve as non-binding guidelines for the NC&PB.

130. U.S. Probation Officer (USPO). Federal official of the Probation Division, Administrative Office of the United States Courts, having immediate supervisory cognizance over an offender paroled or *placed on supervised release* from a naval brig or federal correctional facility.

131. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following, in order of precedence: a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Secretary of the Military Service.

132. Waiver of Clemency Review (WCR). A statement or form (DD Form 2715-3), or equivalent, reflecting a voluntary, knowing and intelligent decision, signed by offenders and witnessed by a commissioned officer or the offender's lawyer (military or civilian) stating that, despite the fact that their approved sentence entitles them to have NC&PB conduct a mandatory clemency review of their case, they waive that review.